

JUL 4 1994

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In re Applications of)	MM DOCKET NO. 94-71
)	
SANTA MONICA COMMUNITY COLLEGE)	File No. BPED-920305ME
DISTRICT)	
)	
For a Construction Permit for a New)	
Noncommercial Educational FM Station on)	
Channel 204B at Mojave, California)	
)	
LIVING WAY MINISTRIES)	File No. BPED-920511MC
)	
For a Construction Permit for a New)	
Noncommercial Educational FM Station on)	
Channel 205A at Lancaster, California)	

To: Chief Administrative Law Judge
Joseph Stirmer

MASS MEDIA BUREAU'S CONSOLIDATED COMMENTS ON
JOINT PETITION FOR APPROVAL OF SETTLEMENT AGREEMENT
and
PETITION FOR LEAVE TO AMEND

1. On July 1, 1994, Santa Monica Community College District ("Santa Monica") and Living Way Ministries ("Living Way") filed a Joint Petition for Approval of Settlement Agreement ("Joint Petition"). Also, on July 6, 1994, Santa Monica filed a Petition for Leave to Amend its application. The Mass Media Bureau submits the following comments.

2. The Joint Petition is accompanied by a settlement agreement which contemplates the grant of the Santa Monica *and* Living Way applications. Santa Monica proposes to

amend its application to specify operation on Channel 201B in lieu of 204B, thereby eliminating its mutual exclusivity with Living Way. The amendment also provides information about Santa Monica's governing board, as required by the Hearing Designation Order, No. 43638 (Audio Services Div., released June 27, 1994) ("HDO"), at ¶¶ 2 and 11.¹ The settlement agreement reveals that no consideration has been exchanged or promised by the two applicants.

3. Santa Monica and Living Way state that the settlement agreement will serve the public interest by hastening the inauguration of two new noncommercial educational FM services in Mojave and Lancaster, California. Both applicants also declare under penalty of perjury that their respective applications were not filed for the purpose of reaching or carrying out a settlement.

4. The Bureau submits that the Joint Petition satisfies the requirements of § 73.3525 of the Commission's Rules, which implements § 311(c)(3) of the Communications Act of 1934, as amended. Specifically, a copy of the settlement agreement has been timely filed, and the applicants have established that approval of the agreement would serve the public interest and that neither application was filed for an improper purpose.

5. Furthermore, based on an analysis by its technical staff, the Bureau concludes that

¹ Santa Monica also provides a copy of a determination from the Federal Aviation Administration ("FAA") that Living Way's proposed tower will not constitute a hazard to air navigation.

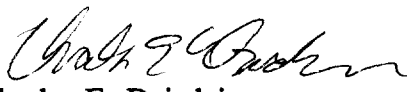
Santa Monica's proposal to specify operation on a new channel complies with all relevant Commission rules. Good cause has been shown for acceptance of the technical amendment inasmuch as it is an integral part of the universal settlement package. Also, good cause exists for acceptance of the information about Santa Monica's governing board because the information was required to be filed by the HDO.²


6. Based upon the foregoing, the Joint Petition should be granted, the settlement agreement should be approved, the Santa Monica and Living Way amendments should be accepted, the air hazard issue specified against Living Way should be resolved in Living Way's favor, and the application of Living Way should be granted. However, the Presiding Judge should not grant Santa Monica's amended application until such time as the FAA has

² Although no petition for leave to amend Living Way's application has been filed, it is clear that good cause exists to accept the FAA determination of no hazard which was submitted by Santa Monica on Living Way's behalf.

approved Santa Monica's new technical proposal.

Respectfully submitted,
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July 14, 1994

CERTIFICATE OF SERVICE

I, Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certify that I have, on this 14th day of July 1994, sent by regular United States mail, copies of the foregoing, "Mass Media Bureau's Consolidated Comments on Joint Petition for Approval of Settlement Agreement and Petition for Leave to Amend" to:

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